

Message Text

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TAGS: BEXP CS
SUBJECT: PROHIBITION ON BEARER SHARE COMPANIES DOING BUSINESS WITH
GOCR

REF: USDOC 1389

1. EMBASSY APPRECIATES REPLY TO GOCR CONTROLLER GENERAL'S
INQUIRY ABOUT U.S. PRACTICES RE BEARER SHARE COMPANIES.
HOWEVER, IN ORDER TO ASSURE THAT U.S. FIRMS ARE NOT PREVENTED
FROM SELLING GOODS AND SERVICES TO THE GOCR DUE TO A LACK
OF UNDERSTANDING ON THE PART OF LOCAL OFFICIALS OF THE U.S.
SYSTEM OF SHAREHOLDING MORE DETAILED INFORMATION IS REQUIRED.

2. THE ESSENTIAL POINT WHICH THE GOCR CONTROLLER GENERAL
IS SEEKING TO PIN DOWN WITH RESPECT TO DEFINING THE TERM
QUOTE BEARER SHARE COMPANY UNQUOTE AS IT WOULD APPLY TO
AMERICAN COMPANIES IS THE ACCOUNTABILITY FOR THE COMPANIES'
SHARES AND NOT NECESSARILY WHETHER OR NOT THERE IS A LEGAL
OBLIGATION TO DIVULGE THE LIST OF THE COMPANY'S SHAREHOLDERS
TO THE GENERAL PUBLIC. IF BEARER SHARE COMPANIES EXIST IN
THE U.S. NO U.S. COMPANY WOULD BE ELIGIBLE TO SUPPLY GOODS
OR SERVICES TO THE GOCR UNLESS IT CAN PROVE IT IS NOT SO
ORGANIZED.

3. ANSWERS TO THE FOLLOWING QUESTIONS WOULD BE MOST HELPFUL
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IN THIS REGARD.

A. WHAT ARE THE REQUIREMENTS OF U.S. LAW AND SEC REGULATIONS
WITH RESPECT TO REGISTRATION OF COMPANY SHARES IN THE NAME
OF THE OWNER AND TO MAINTENANCE OF RECORDS OF SHARE OWNERSHIP?
CAN SHARES BE ISSUED TO THE BEARER AND IF SO UNDER WHAT
CIRCUMSTANCES? WHO HAS A LEGAL RIGHT OF ACCESS TO RECORDS

OF SHARE OWNERSHIP, LAW ENFORCEMENT AGENCIES, REGULATORY AUTHORITIES, SHAREHOLDERS, THE GENERAL PUBLIC? CAN A COMPANY ISSUE QUOTE INSTRUMENTS OF PARTICIPATION UNQUOTE TO THE BEARER?

B. DO THE RULES OR REGULATIONS OF NATIONAL STOCK EXCHANGES IN THE U.S. PROHIBIT SHARES OF COMPANIES TRADED THEREON TO BE ISSUED TO THE BEARER? IF NOT, DO THEY REQUIRE THE COMPANY TO MAINTAIN A LIST OF WHO THE STOCKHOLDERS ARE?

C. DO ANY STATE LAWS OR REGULATIONS ON INCORPORATION PROHIBIT THE ISSUANCE OF SHARES TO THE BEARER, OR IF NOT, DO THEY REQUIRE THE COMPANY TO MAINTAIN A LIST OF STOCKHOLDERS? (WHILE THE EMBASSY REALIZES A STATE-BY-STATE SURVEY WOULD BE A TIME-CONSUMING TASK, PERHAPS SOME REPRESENTATIVE STATES, SUCH AS DELAWARE AND NEW YORK COULD BE CHECKED).

D. WOULD IT BE FEASIBLE FOR U.S. COMPANIES INTERESTED IN SELLING GOODS AND SERVICES TO THE GOCR TO SECURE FROM THE SECRETARY OF STATE OR OTHER APPROPRIATE STATE OFFICIAL OF THE STATE IN WHICH THEY ARE INCORPORATED A STATEMENT OF LAW AS TO WHETHER OR NOT COMPANIES ARE PROHIBITED FROM ISSUING BEARER SHARES OR, IF NOT, WHETHER THE STATE'S LAW OR REGULATIONS REQUIRE THE COMPANIES TO KEEP A LIST OF STOCKHOLDERS?

E. IS THERE ANY LEGAL IMPEDIMENT TO A COMPANY VOLUNTARILY PROVIDING A LIST OF ITS STOCKHOLDERS TO THE GOCR IN ORDER TO ASSURE THAT THE SALE OF GOODS AND SERVICES TO UNCLASSIFIED

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THE GOCR BY SUCH A COMPANY WOULD NOT VIOLATE COSTA RICAN LAW?

4. A CABLE RESPONSE TO THESE QUESTIONS WOULD BE APPRECIATED.
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